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June 22, 2018

VIA ECF

Hon. John G. Koeltl
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007-1312

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Re: R.F.M. et al., v. Kirstjen Nielsen et al., No. 18 Civ. 5068

Dear Judge Koeltl:

We, along with The Legal Aid Society, represent Plaintiffs in the above-captioned case (“*R.F.M.*”) and write to request that the Court schedule a status conference on Tuesday, June 26, 2018 at 3:00 pm to coincide with the status conference the Court has scheduled in a related case, *Flores Zabaleta v. Duke, et al.*, No. 17 Civ. 7512. (Doc. No. 35.) There is a significant overlap in the subject matter, relief requested, and counsel between *R.F.M.* (18 CV 5068) and *Zabaleta* (17 CV 7512), and therefore we respectfully suggest that holding a joint conference on June 26, 2018 will be to the benefit of the parties and the Court.

Like *Zabaleta*, Plaintiffs in *R.F.M.* challenge the wrongful denials of Special Immigrant Juvenile status (“SIJS”). Defendants in both cases, officials from the United States Citizenship and Immigration Services (“USCIS”) in their official capacities, recently began systematically denying applications submitted in New York by petitioners who obtained SIJS predicate orders between the ages of 18 and 21 years old. Plaintiffs in *R.F.M.* allege that the systematic denials of SIJS constitute a policy change that violates the Administrative Procedure Act because it is contrary to the federal SIJS statute, New York state law, and was undertaken without any change in law, new guidance, rulemaking, or policy announcements. Plaintiffs in *R.F.M.* have filed a motion for class certification and a motion seeking a preliminary injunction to bring Defendants back into compliance with the law and their prior policy.

Mr. Flores-Zabaleta, the plaintiff in the *Zabaleta* action, is a member of the putative class in *R.F.M.* Mr. Flores-Zabaleta challenges the wrongful denial of his SIJS application on similar grounds as in *R.F.M.* In fact, in their request for an extension of time to respond to the

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supplemental complaint in *Zabaleta*, counsel for Defendants cited the filing of *R.F.M.* as a “consideration relevant to the Government’s response.” (17 CV 7512, Doc. No. 31 at 2.)

Given the substantial overlap in facts, parties, and causes of action, we have reached out to counsel for the Defendants to raise specific scheduling proposals with respect to how to coordinate any briefing in *R.F.M.* and *Zabaleta* efficiently. Specifically, we have concerns about Defendants’ request for additional time to develop its positions regarding the challenges to their SIJS policy change as raised by these two lawsuits, given the irreparable harm to the Plaintiffs or putative class members (including Mr. Flores-Zabaleta) caused by such a delay. Therefore, we have laid out for Defendants’ counsel a proposal for coordinating the cases efficiently and in a manner that avoids such irreparable harm. As Your Honor is aware, counsel for Defendants in *Zabaleta*, Kirti Vaidya Reddy, is currently out of the country and is unable to speak with us until Monday afternoon. We have emailed our proposal to Defendants’ counsel, and will speak with them on Monday, then report back to the Court.

Thank you for your time and consideration of this matter.

Respectfully submitted,



Robert J. Malionek
of LATHAM & WATKINS LLP

cc: All Counsel of Record via ECF